THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.23180 of 2006

Dated: .11.2006

Between:

Bonagiri Venkateswarlu.

.... PETITIONER

AND

The Depot Manager, APSRTC, Manuguru, Khammam District.

.....RESPONDENT.

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.23180 of 2006

ORDER

This writ petition is filed seeking a Mandamus to declare the action of respondent in issuing the proceedings dated 02.12.2004, retiring the petitioner from service prematurely, as illegal and arbitrary and consequently, to direct the respondent to continue the petitioner in service by reinstating him into service forthwith by considering his representation dated.05.02.2006.

2. The petitioner worked as Driver in the respondent Corporation. The petitioner states that at the time of his appointment, he was subjected to medical examination for determination of his age, and the Government District Headquarters Hospital, APSRTC, Karimnagar, having examined him, issued age certificate dated 06.04.1979, determining his age as 28 years, and the year of his birth as 1951. The petitioner states that based on the said certificate, the respondents recorded his year of birth in the service records as 1951. While so, on 02.12.2004, the respondent-Corporation issued notice to the petitioner informing him that he would be retired from service on 31.03.2005, on which day he would attain the age of superannuation, by taking into account his date of birth as 14.03.1947, as recorded in the service records. The petitioner states that at the time of releasing his retiral benefits pursuant to his retirement, the Audit Department raised an objection as to how the petitioner is being retired when he has still more service to complete. Thereafter, the petitioner made representation dated 05.02.2006 to the respondent-Corporation requesting to reinstate him into service by taking into account his date of birth as 06.04.1951 instead of 14.03.1947, but no orders thereon have been passed by the respondent-Corporation. Hence, he filed the

present writ petition.

3. Learned counsel for the petitioner submitted that as per the certificate issued by the Government District Headquarters Hospital, Karimnagar, the age of the petitioner was assessed as 28 years as on 06.04.1979 and his date of birth was recorded in the service records as 06.04.1951, but the respondent retired him from service much before the date of superannuation on 31.03.2005, by taking into account his date of birth as 14.3.1947 instead of 06.04.1951, which is illegal and arbitrary. He further submitted that he came to know that his date of birth was wrongly entered in the service register only when the audit authorities raised objection for release of his retiral benefits on the ground as to why the petitioner has been retired prematurely. Therefore, he prays to direct the respondent to reinstate him into service by taking into account his date of birth as 06.04.1951 by considering his representation dated 05.02.2006.

4. Learned Standing Counsel for the respondent-Corporation vehemently opposed the said contention stating that the date of birth of the petitioner as entered in the service records is 14.03.1947, and based on the said date of birth, the respondent-authorities retired the petitioner from service on his attaining the age of superannuation and therefore, there is no irregularity committed by the respondent in retiring him from service.

5. Heard the learned counsel for the petitioner at length and the learned Standing Counsel for the respondent-Corporation.

6. On a perusal of the entire material on record, it would reveal that admittedly, the age of the petitioner was assessed as 28 years as on 06.04.1979, and his date of birth as per the certificate issued by Government District Head Quarters Hospital, Karimnagar, is 06.04.1951. It is surprising to note that the petitioner neither during the entire service period nor even after issuing the impugned proceedings informing his date of retirement as on 31.03.2005 on attaining the age of superannuation, has raised any objection or made any representation about correction of his date of birth. Further, I am unable to accept the contention of the learned counsel for the petitioner that only at the time when the

audit authorities raised an objection for release of retirement benefits, the petitioner noticed that his date of birth was wrongly recorded as 1951. The petitioner also has not produced any material about the alleged objection raised by the Audit Department. So, this is a frivolous litigation filed by the petitioner to take a chance before this Court.

7. In the circumstances, absolutely, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

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N.V.RAMANA, J

Dated: .11.2006

sj